

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE MAY 14, 2013

AMENDED IN SENATE MAY 1, 2013

SENATE BILL

No. 809

Introduced by Senators DeSaulnier and Steinberg
(Coauthors: Senators Hancock, Lieu, Pavley, and Price)
(Coauthor: Assembly Member Blumenfield)

February 22, 2013

An act to add ~~Section~~ *Sections* 805.8 and 2196.8 to the Business and Professions Code, to amend Sections 11165 and 11165.1 of the Health and Safety Code, and to add Part 21 (commencing with Section 42001) to Division 2 of the Revenue and Taxation Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 809, as amended, DeSaulnier. Controlled substances: reporting.

(1) Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

Existing law requires dispensing pharmacies and clinics to report, on a weekly basis, specified information for each prescription of Schedule II, Schedule III, or Schedule IV controlled substances, to the department, as specified.

This bill would establish the CURES Fund within the State Treasury to receive funds to be allocated, upon appropriation by the Legislature, to the Department of Justice for the purposes of funding CURES, and would make related findings and declarations.

This bill would require the Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Committee of the Medical Board of California, the Osteopathic Medical Board of California, *the Naturopathic Medicine Committee of the Osteopathic Medical Board of California*, the State Board of Optometry, and the California Board of Podiatric Medicine ~~to increase the licensure, certification, and renewal fees charged to~~ *charge* practitioners under their supervision who are authorized to ~~prescribe~~ *prescribe, order, administer, furnish, or dispense* controlled substances, ~~by up to 1.16%, substances a fee of up to 1.16% of the renewal fee that the licensee was subject to as of July 1, 2013, the proceeds of which would be deposited into the CURES Fund for support of CURES, as specified. This bill would also require the California State Board of Pharmacy ~~to increase the licensure, certification, and renewal fees charged to~~ *charge* wholesalers, nonresident wholesalers, and veterinary food-animal drug retailers under their supervision ~~by up to 1.16%, a fee of up to 1.16% of the renewal fee that the wholesaler, nonresident wholesaler, or veterinary food-animal drug retailer was subject to as of July 1, 2013, the proceeds of which would be deposited into the CURES Fund for support of CURES, as specified. *The bill would require each of these fees to be due and payable at the time the license is renewed and require the fee to be submitted with the renewal fee.*~~~~

(2) Existing law requires the Medical Board of California to periodically develop and disseminate information and educational materials regarding various subjects, including pain management techniques, to each licensed physician and surgeon and to each general acute care hospital in California.

This bill would additionally require the board to periodically develop and disseminate to each licensed physician and surgeon and to each general acute care hospital in California information and educational materials relating to the assessment of a patient's risk of abusing or diverting controlled substances and information relating to CURES.

(2)

(3) Existing law permits a licensed health care practitioner, as specified, or a pharmacist to apply to the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient under his or her care. Existing law also authorizes the Department of Justice to provide the history of controlled substances dispensed to an individual to licensed health care practitioners, pharmacists, or both, providing care or services to the individual.

This bill would require licensed health care practitioners, as specified, and pharmacists to apply to the Department of Justice to obtain approval to access information stored on the Internet regarding the controlled substance history of a patient under his or her care, and, upon the happening of specified events, to *be strongly encouraged to* access and consult that information prior to prescribing or dispensing Schedule II, Schedule III, or Schedule IV controlled substances. *The bill would make other related and conforming changes.*

(3)

(4) Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would impose a tax upon qualified manufacturers, as defined, beginning January 1, 2015. The tax would be collected by the State Board of Equalization pursuant to the procedures set forth in the Fee Collection Procedures Law. The bill would require the board to deposit all taxes, penalties, and interest collected pursuant to these provisions in the CURES Fund, as provided. This bill would also allow specified insurers, as defined, and health care service plans, as defined, to voluntarily contribute to the CURES Fund, as described. Because this bill would expand application of the Fee Collection Procedures Law, the violation of which is a crime, it would impose a state-mandated local program.

(4)

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5)

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The Controlled Substance Utilization Review and Evaluation
4 System (CURES) is a valuable ~~investigative~~, preventive,
5 ~~investigative~~, and educational tool for ~~law enforcement~~, *health*
6 *care providers*, regulatory boards, educational researchers, and
7 ~~the health care community~~. *law enforcement*. Recent budget cuts
8 to the Attorney General's Division of Law Enforcement have
9 resulted in insufficient funding to support the CURES Prescription
10 Drug Monitoring Program (PDMP). The PDMP is necessary to
11 ensure health care professionals have the necessary data to make
12 informed treatment decisions and to allow law enforcement to
13 investigate diversion of prescription drugs. Without a dedicated
14 funding source, the CURES PDMP is not sustainable.

15 (b) Each year CURES responds to more than ~~60,000~~ *800,000*
16 requests from practitioners and pharmacists regarding all of the
17 following:

18 (1) Helping identify and deter drug abuse and diversion of
19 prescription drugs through accurate and rapid tracking of Schedule
20 II, Schedule III, and Schedule IV controlled substances.

21 (2) Helping practitioners make better prescribing decisions.

22 (3) Helping reduce misuse, abuse, and trafficking of those drugs.

23 (c) Schedule II, Schedule III, and Schedule IV controlled
24 substances have had deleterious effects on private and public
25 interests, including the misuse, abuse, and trafficking in dangerous
26 prescription medications resulting in injury and death. It is the
27 intent of the Legislature to work with stakeholders to fully fund
28 the operation of CURES which seeks to mitigate those deleterious
29 ~~effects~~, *effects and serve as a tool for ensuring safe patient care*,
30 and which has proven to be a cost-effective tool to help reduce the
31 misuse, abuse, and trafficking of those drugs.

32 (d) *The following goals are critical to increase the effectiveness*
33 *and functionality of CURES:*

1 (1) Upgrading the PDMP so that it is capable of accepting
2 real-time updates and is accessible in real-time, 24 hours a day,
3 seven days a week.

4 (2) Upgrading all prescription drug monitoring programs in
5 California so that they are capable of operating in conjunction
6 with all national prescription drug monitoring programs.

7 (3) Providing subscribers to prescription drug monitoring
8 programs access to information relating to controlled substances
9 dispensed in California, including those dispensed through the
10 federal Department of Veterans' Affairs, the Indian Health Service,
11 the Department of Defense, and any other entity with authority to
12 dispense controlled substances in California.

13 (4) Upgrading the PDMP so that it is capable of accepting
14 electronic prescriptions, thereby enabling more reliable, complete,
15 and timely prescription monitoring.

16 SEC. 2. Section 805.8 is added to the Business and Professions
17 Code, to read:

18 805.8. (a) (1) ~~The~~ *In addition to the fees charged for licensure,*
19 *certification, and renewal, at the time those fees are charged, the*
20 *Medical Board of California, the Dental Board of California, the*
21 *California State Board of Pharmacy, the Veterinary Medical Board,*
22 *the Board of Registered Nursing, the Physician Assistant*
23 *Committee of the Medical Board of California, the Osteopathic*
24 *Medical Board of California, the Naturopathic Medicine Committee*
25 *of the Osteopathic Medical Board of California, the State Board*
26 *of Optometry, and the California Board of Podiatric Medicine shall*
27 ~~increase the licensure, certification, and renewal fees charged to~~
28 ~~practitioners under their supervision who are charge each licensee~~
29 *authorized pursuant to Section 11150 of the Health and Safety*
30 *Code to prescribe, order, administer, furnish, or dispense*
31 *Schedule II, Schedule III, or Schedule IV controlled substances*
32 ~~by up to 1.16 percent annually, but in a fee of up to 1.16 percent~~
33 *of the renewal fee that the licensee was subject to as of July 1,*
34 *2013, to be assessed annually. This fee shall be due and payable*
35 *at the time the licensee renews his or her license and shall be*
36 ~~submitted with the licensee's renewal fee. In no case shall the this~~
37 ~~fee increase exceed the reasonable costs associated with operating~~
38 *and maintaining CURES for the purpose of regulating prescribers*
39 *and dispensers of controlled substances licensed or certificated by*
40 *these boards.*

(2) ~~The~~—*In addition to the fees charged for licensure, certification, and renewal, at the time those fees are charged, the California State Board of Pharmacy shall increase the licensure, certification, and renewal fees charged to charge wholesalers and nonresident wholesalers of dangerous drugs, licensed pursuant to Article 11 (commencing with Section 4160) of Chapter 9, by up to 1.16 percent annually, but in a fee of up to 1.16 percent of the renewal fee that the wholesaler or nonresident wholesaler was subject to as of July 1, 2013, to be assessed annually. This fee shall be due and payable at the time the wholesaler or nonresident wholesaler renews its license and shall be submitted with the wholesaler's or nonresident wholesaler's renewal fee. In no case shall the this fee increase exceed the reasonable costs associated with operating and maintaining CURES for the purpose of regulating wholesalers and nonresident wholesalers of dangerous drugs licensed or certificated by that board.*

(3) ~~The~~—*In addition to the fees charged for licensure, certification, and renewal, at the time those fees are charged, the California State Board of Pharmacy shall increase the licensure, certification, and renewal fees charged to charge veterinary food-animal drug retailers, licensed pursuant to Article 15 (commencing with Section 4196) of Chapter 9, by up to 1.16 percent annually, but in a fee of up to 1.16 percent of the renewal fee that the drug retailer was subject to as of July 1, 2013, to be assessed annually. This fee shall be due and payable at the time the drug retailer renews its license and shall be submitted with the drug retailers' renewal fee. In no case shall the this fee increase exceed the reasonable costs associated with operating and maintaining CURES for the purpose of regulating veterinary food-animal drug retailers licensed or certificated by that board.*

(b) The funds collected pursuant to subdivision (a) shall be deposited in the CURES accounts, which are hereby created, within the Contingent Fund of the Medical Board of California, the State Dentistry Fund, the Pharmacy Board Contingent Fund, the Veterinary Medical Board Contingent Fund, the Board of Registered Nursing Fund, *the Naturopathic Doctor's Fund*, the Osteopathic Medical Board of California Contingent Fund, the Optometry Fund, and the Board of Podiatric Medicine Fund. Moneys in the CURES accounts of each of those funds shall, upon appropriation by the Legislature, be available to the Department

1 of Justice solely for *operating and* maintaining CURES for the
2 purposes of regulating prescribers and dispensers of controlled
3 substances. All moneys received by the Department of Justice
4 pursuant to this section shall be deposited in the CURES Fund
5 described in Section 11165 of the Health and Safety Code.

6 *SEC. 3. Section 2196.8 is added to the Business and Professions*
7 *Code, to read:*

8 *2196.8. The board shall periodically develop and disseminate*
9 *information and educational material regarding assessing a*
10 *patient's risk of abusing or diverting controlled substances and*
11 *information relating to the Controlled Substance Utilization Review*
12 *and Evaluation System (CURES), described in Section 11165 of*
13 *the Health and Safety Code, to each licensed physician and surgeon*
14 *and to each general acute care hospital in this state. The board*
15 *shall consult with the State Department of Health Care Services*
16 *and the Department of Justice in developing the materials to be*
17 *distributed pursuant to this section.*

18 ~~SEC. 3.~~

19 *SEC. 4. Section 11165 of the Health and Safety Code is*
20 *amended to read:*

21 *11165. (a) To assist health care practitioners in their efforts*
22 *to ensure appropriate prescribing, ordering, administering,*
23 *furnishing, and dispensing of controlled substances, law*
24 *enforcement and regulatory agencies in their efforts to control the*
25 *diversion and resultant abuse of Schedule II, Schedule III, and*
26 *Schedule IV controlled substances, and for statistical analysis,*
27 *education, and research, the Department of Justice shall, contingent*
28 *upon the availability of adequate funds in the CURES accounts*
29 *within the Contingent Fund of the Medical Board of California,*
30 *the Pharmacy Board Contingent Fund, the State Dentistry Fund,*
31 *the Board of Registered Nursing Fund, the Naturopathic Doctor's*
32 *Fund, the Osteopathic Medical Board of California Contingent*
33 *Fund, the Veterinary Medical Board Contingent Fund, the*
34 *Optometry Fund, the Board of Podiatric Medicine Fund, and the*
35 *CURES Fund, maintain the Controlled Substance Utilization*
36 *Review and Evaluation System (CURES) for the electronic*
37 *monitoring of, and Internet access to information regarding, the*
38 *prescribing and dispensing of Schedule II, Schedule III, and*
39 *Schedule IV controlled substances by all practitioners authorized*

1 to ~~prescribe~~ *prescribe, order, administer, furnish,* or dispense these
2 controlled substances.

3 (b) The reporting of Schedule III and Schedule IV controlled
4 substance prescriptions to CURES shall be contingent upon the
5 availability of adequate funds for the Department of Justice for
6 the purpose of funding CURES. ~~The department may~~

7 (c) *The Department of Justice may seek and use grant funds to*
8 *pay the costs incurred from the reporting of controlled substance*
9 *prescriptions to by the operation and maintenance of CURES. The*
10 *department shall make information about the amount and the source*
11 *of all private grant funds annually report to the Legislature and*
12 *make available to the public the amount and source of funds it*
13 *receives for support of CURES available to the public. CURES.*
14 *Grant funds shall not be appropriated from the Contingent Fund*
15 *of the Medical Board of California, the Pharmacy Board Contingent*
16 *Fund, the State Dentistry Fund, the Board of Registered Nursing*
17 *Fund, the Naturopathic Doctor's Fund, or the Osteopathic Medical*
18 *Board of California Contingent Fund to pay the costs of reporting*
19 *Schedule III and Schedule IV controlled substance prescriptions*
20 *to Fund, the Veterinary Medical Board Contingent Fund, the*
21 *Optometry Fund, or the Board of Podiatric Medicine Fund, for*
22 *the purpose of funding CURES.*

23 (e) ~~CURES shall operate under existing provisions of law to~~
24 ~~safeguard the privacy and confidentiality of patients. Data obtained~~
25 ~~from CURES shall only be provided to appropriate state, local,~~
26 ~~and federal persons or public agencies for disciplinary, civil, or~~
27 ~~criminal purposes and to other agencies or entities, as determined~~
28 ~~by the Department of Justice, for the purpose of educating~~
29 ~~practitioners and others in lieu of disciplinary, civil, or criminal~~
30 ~~actions. Data may be provided to public or private entities, as~~
31 ~~approved by the Department of Justice, for educational, peer~~
32 ~~review, statistical, or research purposes, provided that patient~~
33 ~~information, including any information that may identify the~~
34 ~~patient, is not compromised. Further, data disclosed to any~~
35 ~~individual or agency, as described in this subdivision, shall not be~~
36 ~~disclosed, sold, or transferred to any third party.~~

37 (d) (1) *The operation of CURES shall comply with all*
38 *applicable federal and state privacy and security laws and*
39 *regulations.*

1 (2) *The Department of Justice may establish policies,*
2 *procedures, and regulations regarding the use, access, evaluation,*
3 *management, implementation, operation, storage, and security of*
4 *the information within CURES.*

5 ~~(d)~~

6 (e) For each prescription for a Schedule II, Schedule III, or
7 Schedule IV controlled substance, as defined in the controlled
8 substances schedules in federal law and regulations, specifically
9 Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21
10 of the Code of Federal Regulations, the dispensing ~~pharmacy or~~
11 ~~clinic pharmacy, clinic, or other dispenser~~ shall ~~provide report~~
12 ~~the following information to the Department of Justice on a weekly~~
13 ~~basis as soon as reasonably possible, but not more than seven days~~
14 ~~after the date a controlled substance is dispensed, unless monthly~~
15 ~~reporting is permitted pursuant to subdivision (f) of Section 11190,~~
16 and in a format specified by the Department of Justice:

17 (1) Full name, address, and telephone number of the ultimate
18 user or research subject, or contact information as determined by
19 the Secretary of the United States Department of Health and Human
20 Services, and the gender, and date of birth of the ultimate user.

21 (2) The prescriber's category of licensure and license number,
22 the federal controlled substance registration number, and the state
23 medical license number of any prescriber using the federal
24 controlled substance registration number of a government-exempt
25 facility.

26 (3) Pharmacy prescription number, license number, and federal
27 controlled substance registration number.

28 (4) National Drug Code (NDC) number of the controlled
29 substance dispensed.

30 (5) Quantity of the controlled substance dispensed.

31 (6) International Statistical Classification of Diseases, 9th
32 revision (ICD-9) *or 10th revision (ICD-10)* Code, if available.

33 (7) Number of refills ordered.

34 (8) Whether the drug was dispensed as a refill of a prescription
35 or as a first-time request.

36 (9) Date of origin of the prescription.

37 (10) Date of dispensing of the prescription.

38 (f) *The Department of Justice may invite stakeholders to assist,*
39 *advise, and make recommendations on the establishment of rules*
40 *and regulations necessary to ensure the proper administration*

1 *and enforcement of the CURES database. All prescriber invitees*
2 *shall be licensed by one of the boards or committees identified in*
3 *subdivision (a) of Section 805.8 of the Business and Professions*
4 *Code, in active practice in California, and a regular user of*
5 *CURES.*

6 *(g) The Department of Justice shall, prior to upgrading CURES,*
7 *consult with prescribers licensed by one of the boards or*
8 *committees identified in subdivision (a) of Section 805.8 of the*
9 *Business and Professions Code, one or more of the regulatory*
10 *boards or committees identified in subdivision (a) of Section 805.8*
11 *of the Business and Professions Code, and any other stakeholder*
12 *identified by the department for the purpose of identifying desirable*
13 *capabilities and upgrades to the CURES Prescription Drug*
14 *Monitoring Program.*

15 *(h) The Department of Justice may establish a process to educate*
16 *authorized subscribers of CURES on how to access and use*
17 *CURES.*

18 ~~(e)~~

19 *(i) The CURES Fund is hereby established within the State*
20 *Treasury. The CURES Fund shall consist of all funds made*
21 *available to the Department of Justice for the purpose of funding*
22 *CURES. Money in the CURES Fund shall, upon appropriation by*
23 *the Legislature, be available for allocation to the Department of*
24 *Justice for the purpose of funding CURES.*

25 ~~SEC. 4.~~

26 *SEC. 5. Section 11165.1 of the Health and Safety Code is*
27 *amended to read:*

28 *11165.1. (a) (1) A licensed health care practitioner eligible*
29 *to prescribe Schedule II, Schedule III, or Schedule IV controlled*
30 *substances or a pharmacist shall submit a notarized an application*
31 *developed by the Department of Justice to obtain approval to access*
32 *information online regarding the controlled substance history of*
33 *a patient that is stored on the Internet and maintained within the*
34 *Department of Justice, and, upon approval, the department shall*
35 *release to that practitioner or pharmacist the electronic history of*
36 *controlled substances dispensed to an individual under his or her*
37 *care based on data contained in the CURES Prescription Drug*
38 *Monitoring Program (PDMP).*

1 (A) An application may be denied, or a subscriber may be
2 suspended, for reasons which include, but are not limited to, the
3 following:

4 (i) Materially falsifying an application for a subscriber.

5 (ii) Failure to maintain effective controls for access to the patient
6 activity report.

7 (iii) Suspended or revoked federal Drug Enforcement
8 Administration (DEA) registration.

9 (iv) Any subscriber who is arrested for a violation of law
10 governing controlled substances or any other law for which the
11 possession or use of a controlled substance is an element of the
12 crime.

13 (v) Any subscriber accessing information for any other reason
14 than caring for his or her patients.

15 (B) Any authorized subscriber shall notify the Department of
16 Justice within 30 days of any changes to the subscriber account.

17 (2) To allow sufficient time for licensed health care practitioners
18 eligible to prescribe Schedule II, Schedule III, or Schedule IV
19 controlled substances and a pharmacist to apply and receive access
20 to PDMP, a written request may be made, until July 1, 2012, and
21 the Department of Justice may release to that practitioner or
22 pharmacist the history of controlled substances dispensed to an
23 individual under his or her care based on data contained in CURES.

24 (b) Any request for, or release of, a controlled substance history
25 pursuant to this section shall be made in accordance with guidelines
26 developed by the Department of Justice.

27 (c) (1) Until the Department of Justice has issued the
28 notification described in paragraph (3), in order to prevent the
29 inappropriate, improper, or illegal use of Schedule II, Schedule
30 III, or Schedule IV controlled substances, the Department of Justice
31 may initiate the referral of the history of controlled substances
32 dispensed to an individual based on data contained in CURES to
33 licensed health care practitioners, pharmacists, or both, providing
34 care or services to the individual.

35 (2) Upon the Department of Justice issuing the notification
36 described in paragraph (3) ~~and approval of the application required~~
37 ~~pursuant to subdivision (a);~~ (3), licensed health care practitioners
38 eligible to prescribe Schedule II, Schedule III, or Schedule IV
39 controlled substances and pharmacists shall *be strongly encouraged*
40 *to* access and consult the electronic history of controlled substances

1 dispensed to an individual under his or her care prior to prescribing
2 or dispensing a Schedule II, Schedule III, or Schedule IV controlled
3 substance.

4 (3) The Department of Justice shall notify licensed health care
5 practitioners and pharmacists who have submitted the application
6 required pursuant to subdivision (a) when the department
7 determines that CURES is capable of accommodating the mandate
8 ~~contained in paragraph (2); all users~~, but not before June 1, 2015.
9 The department shall provide a copy of the notification to the
10 Secretary of State, the Secretary of the Senate, the Chief Clerk of
11 the Assembly, and the Legislative Counsel, and shall post the
12 notification on the department's Internet Web site.

13 (d) The history of controlled substances dispensed to an
14 individual based on data contained in CURES that is received by
15 a practitioner or pharmacist from the Department of Justice
16 pursuant to this section shall be considered medical information
17 subject to the provisions of the Confidentiality of Medical
18 Information Act contained in Part 2.6 (commencing with Section
19 56) of Division 1 of the Civil Code.

20 (e) Information concerning a patient's controlled substance
21 history provided to a prescriber or pharmacist pursuant to this
22 section shall include prescriptions for controlled substances listed
23 in Sections 1308.12, 1308.13, and 1308.14 of Title 21 of the Code
24 of Federal Regulations.

25 ~~SEC. 5.~~

26 *SEC. 6.* Part 21 (commencing with Section 42001) is added to
27 Division 2 of the Revenue and Taxation Code, to read:

28
29 PART 21. CONTROLLED SUBSTANCE UTILIZATION
30 REVIEW AND EVALUATION SYSTEM (CURES) TAX LAW
31

32 42001. For purposes of this part, the following definitions
33 apply:

34 (a) "Controlled substance" means a drug, substance, or
35 immediate precursor listed in any schedule in Section 11055,
36 11056, or 11057 of the Health and Safety Code.

37 (b) "Health care service plan" means an entity licensed pursuant
38 to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter
39 2.2 (commencing with Section 1340) of Division 2 of the Health
40 and Safety Code).

1 (c) “Insurer” means an admitted insurer writing health insurance,
2 as defined in Section 106 of the Insurance Code, and an admitted
3 insurer writing workers’ compensation insurance, as defined in
4 Section 109 of the Insurance Code.

5 (d) “Qualified manufacturer” means a manufacturer of a
6 controlled substance, but does not mean a wholesaler or nonresident
7 wholesaler of dangerous drugs, regulated pursuant to Article 11
8 (commencing with Section 4160) of Chapter 9 of Division 2 of
9 the Business and Professions Code, a veterinary food-animal drug
10 retailer, regulated pursuant to Article 15 (commencing with Section
11 4196) of Chapter 9 of Division 2 of the Business and Professions
12 Code, or an individual regulated by the Medical Board of
13 California, the Dental Board of California, the California State
14 Board of Pharmacy, the Veterinary Medical Board, the Board of
15 Registered Nursing, the Physician Assistant Committee of the
16 Medical Board of California, the Osteopathic Medical Board of
17 California, the State Board of Optometry, or the California Board
18 of Podiatric Medicine.

19 42003. (a) Beginning January 1, 2015, for the privilege of
20 doing business in this state, an annual tax is hereby imposed on
21 all qualified manufacturers in an amount determined pursuant to
22 Section 42007 for the purpose of establishing and maintaining
23 enforcement of the Controlled Substance Utilization Review and
24 Evaluation System (CURES), established pursuant to Section
25 11165 of the Health and Safety Code.

26 (b) The Department of Justice may seek grant moneys from
27 insurers and health care service plans for the purpose of ~~upgrading~~
28 ~~and modernizing~~ *supporting* CURES. Insurers and health care
29 service plans may contribute by submitting their payment to the
30 Controller for deposit into the CURES Fund established pursuant
31 to subdivision (e) of Section 11165 of the Health and Safety Code.
32 The department shall make information about the amount and the
33 source of all private grant funds it receives for support of CURES
34 available to the public. A grant or gift made to the CURES Fund
35 pursuant to this subdivision shall be nondeductible for state tax
36 purposes.

37 42005. (a) The board shall collect the annual tax imposed by
38 this part pursuant to the Fee Collection Procedures Law (Part 30
39 (commencing with Section 55001)). For purposes of this part, a
40 reference in the Fee Collection Procedures Law to a “fee” shall

1 include this tax and a reference to a “feepayer” shall include a
2 person liable for the payment for the taxes collected pursuant to
3 that law.

4 (b) (1) The board shall not accept or consider a petition for
5 redetermination that is based on the assertion that a determination
6 by the Department of Justice incorrectly determined that a qualified
7 manufacturer is subject to the tax or that a determination by the
8 Department of Justice improperly or erroneously calculated the
9 amount of that tax. The board shall forward to the Department of
10 Justice any appeal of a determination that asserts that a
11 determination by the Department of Justice incorrectly determined
12 that a qualified manufacturer is subject to the tax or that a
13 determination by the Department of Justice improperly or
14 erroneously calculated the amount of that tax.

15 (2) The board shall not accept or consider a claim for refund
16 that is based on the assertion that a determination by the
17 Department of Justice improperly or erroneously calculated the
18 amount of a tax, or incorrectly determined that the qualified
19 manufacturer is subject to the tax. The board shall forward to the
20 Department of Justice any claim for refund that asserts that a
21 determination by the Department of Justice incorrectly determined
22 that a qualified manufacturer is subject to the tax or that a
23 determination by the Department of Justice improperly or
24 erroneously calculated the amount of that tax.

25 42007. (a) The Department of Justice shall determine the
26 annual tax by dividing the cost to establish and maintain
27 enforcement of CURES by the number of qualified manufacturers.
28 For calendar year 2015, the CURES cost shall be four million two
29 hundred thousand dollars (\$4,200,000). Beginning with the 2016
30 calendar year, and for each calendar year thereafter, the Department
31 of Justice shall adjust the rate annually to reflect increases or
32 decreases in the cost of living during the prior fiscal year, as
33 measured by the California Consumer Price Index for all items.

34 (b) The Department of Justice shall provide to the board the
35 name and address of each qualified manufacturer that is liable for
36 the annual tax, the amount of tax, and the due date.

37 (c) All annual taxes referred to the board for collection pursuant
38 to Section 42005 shall be paid to the board.

1 42009. All taxes, interest, penalties, and other amounts
2 collected pursuant to this part, less refunds and costs of
3 administration, shall be deposited into the CURES Fund.

4 42011. The board shall prescribe, adopt, and enforce rules and
5 regulations relating to the administration and enforcement of this
6 part.

7 ~~SEC. 6.~~

8 *SEC. 7.* No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

17 ~~SEC. 7.~~

18 *SEC. 8.* This act is an urgency statute necessary for the
19 immediate preservation of the public peace, health, or safety within
20 the meaning of Article IV of the Constitution and shall go into
21 immediate effect. The facts constituting the necessity are:

22 In order to protect the public from the continuing threat of
23 prescription drug abuse at the earliest possible time, it is necessary
24 that this act take effect immediately.